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May 21, 2010

ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Ex Parte*, RM-11429

Dear Ms. Dortch:

This is to inform you that earlier today, the undersigned had a telephone conversation with John Leibovitz, Deputy Bureau Chief of the Wireless Telecommunications Bureau.

The purpose of the conversation was to ask that the FCC move forward in adopting a Notice of Proposed Rulemaking in accordance with the Petition filed by Utilities Telecom Council ("UTC") and Winchester Cator, LLC ("Winchester") in the above-captioned proceeding. We discussed the need for additional spectrum in the 14.0-14.5 GHz band for smart grid applications and for more robust communications by critical infrastructure industry ("CII") entities in times of disasters and other emergencies. We also discussed the importance of making available spectrum in the 14 GHz band to be used on a pre-emptible basis for backhaul services, a critical element in continued deployment of broadband services to all Americans.

As a follow up to the conversation, included herein is the following summary, taken from the Petition¹ and Reply Comments² filed by UTC and Winchester in the above-captioned proceeding, which the undersigned e-mailed to Mr. Leibovitz and Paul de Sa, Chief of the Office of Strategic Planning and Policy Analysis.

Please direct any questions regarding this matter to the undersigned.

Respectfully,

A handwritten signature in black ink that reads "Henry Goldberg". The signature is written in a cursive, flowing style.

Henry Goldberg
Attorney for Winchester Cator, LLC

cc: John Leibovitz
Paul de Sa

¹ Utilities Telecom Council and Winchester Cator, LLC, *Petition for Rulemaking to Establish Rules Governing Critical Infrastructure Industry Fixed Service Operations in the 14.0–14.5 GHz Band*, RM-11429 (filed May 6, 2008).

² Reply Comments of Utilities Telecom Council and Winchester Cator, LLC, RM-11429 (filed August 11, 2008).

Summary from Petition for Rulemaking, RM-11429 (filed May 6, 2008)

Members of the critical infrastructure industries (CII) are utilities and other companies that serve millions of customers in areas ranging from major American cities to rural communities and sparsely settled service territories. These utilities own, manage and operate critical communications systems and networks that enable the safe, reliable and efficient delivery of essential water, gas, electric and other energy services to the public at large. UTC is the international trade association for the telecommunications and information technology interests of electric, gas and water utilities, pipeline companies and other critical infrastructure industries (CII).

CII entities provide essential services to the public and play vital homeland security and emergency responder roles as hurricanes, ice storms, wildfires and other natural disasters pose additional challenges. CII entities' communications networks play an important role in ensuring reliable provision of basic services that are required for adequate quality of life, and are used in the aftermath of natural disasters or acts of terrorism to avoid interruptions to these critical services or ensure their prompt restoration.

Utilities are experiencing a rapidly increasing need for, and reliance upon, spectrum based services — and in particular, data capacity — to ensure the reliability of their services to the public. The need will continue to escalate over the next ten to fifteen years. It is imperative that CII entities have robust communications networks in place to respond during the next hurricane, terrorist attack, or other disaster. In order to meet the growing need for spectrum that can be accessed by the critical infrastructure industries, the Commission should commence a proceeding to establish rules that permit the following secondary terrestrial use of the 14.0–14.5 GHz FSS band.

- Fixed point-to-point and point-to-multipoint services for fixed and temporary fixed stations should be permitted in the 14.0–14.5 GHz band on a secondary basis. The proposed operations can operate without interfering with earth-to-space links and other incumbent services by following appropriate technical rules (discussed in greater detail below) and through ongoing frequency coordination and interference management techniques.
- The Commission should permit a single nationwide CII licensee to coordinate and manage all new FS services in the band. The single licensee would be responsible for ensuring that the proposed FS services do not interfere with incumbent operations in the band. The CII licensee would work with CII entities and facilitate their access to the spectrum.
- The 14 GHz CII licensee would perform all necessary on-going frequency coordination and other interference avoidance measures in consultation with an entity expert in satellite and fixed communications. In return, that entity would be permitted to use the CII spectrum on a preemptible basis for non-CII services (noncommercial and/or commercial).

Summary from Reply Comments, RM-11429 (filed August 11, 2008)

The Utilities Telecom Council (“UTC”) and Winchester Cator LLC (“Winchester”) hereby file these joint replies to oppositions to its petition for rulemaking (“UTC Petition”) to amend Parts 2 and 101 to permit shared, secondary terrestrial fixed service use of the 14.0–14.5 GHz band for critical infrastructure industry (“CII”) communications.

The satellite industry’s predictions of interference from the proposed CII fixed service (“FS”) operations are unfounded. In these replies, UTC and Winchester demonstrate that even using the assumptions made by various satellite industry representatives, the proposed FS operations would not interfere with existing satellite users of the band. Similarly, arguments that the proposed FS operations would suffer harmful interference from existing services in the 14.0–14.5 GHz band and that the proposed operations are not appropriate for a secondary allocation are both incorrect and do not recognize CII users’ experience operating in shared bands.

After careful analysis, UTC concluded that the 14.0–14.5 GHz band is well suited to meet the growing needs of CII users. The UTC Petition set forth limitations on the proposed operations that will protect existing FSS services in the band, while giving CII users access to secondary use of the band for crucial operations that will serve the public interest by enabling more efficient operations by electric and other utilities. UTC and Winchester Cator urge the Commission to continue its policy of encouraging spectrum sharing and more efficient use of spectrum by granting the UTC Petition and initiating a rulemaking proceeding in accordance with the Petition.